

United States Court of Appeals
For the Eighth Circuit

No. 13-2488

Jennie Lee Stoner

Plaintiff - Appellee

v.

Southern Farm Bureau Casualty Insurance Company

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Arkansas - Helena

Submitted: June 10, 2014

Filed: July 11, 2014

Before RILEY, Chief Judge, BYE and KELLY, Circuit Judges.

RILEY, Chief Judge.

Despite our sympathy for Mrs. Jennie Stoner's loss, whose home of 50 years suffered significant damage from flooding of the White River in Phillips County, Arkansas, we must follow the law. Mrs. Stoner did not submit the one-page proof of loss form required by the federal standard flood insurance policy. See 44 C.F.R. pt. 61, app. A(1), art. VII(J)(4); Federal Emergency Management Agency (FEMA), Proof

of Loss, Form No. 086-0-9 (Oct. 2010), available at http://www.fema.gov/media-library-data/20130726-1601-20490-7838/086_0_9_previously_ff81_42.pdf. “When people seek benefits from a taxpayer-funded program, it is fair to require them to fill out the correct form.” McCarty v. S. Farm Bureau Cas. Ins. Co., ___ F.3d ___, ___, No. 13-2490, slip op. at 5 (8th Cir. July 11, 2014). For the reasons set forth in McCarty, Mrs. Stoner’s failure to complete and submit the proof of loss form precludes coverage as a matter of federal statutory, regulatory, and common law. See id. at ___, slip op. at 5-8.

We cannot make an exception. As Judge Richard S. Arnold said in his elegantly straightforward way, we judges cannot “make law because we think a certain rule of law is a good thing.” Richard S. Arnold, Address at the Eighth Circuit Judicial Conference: The Art of Judging (Aug. 8, 2002). Federal flood insurance coverage is contingent on the timely submission of a rather simple one-page proof of loss form. See 44 C.F.R. pt. 61, app. A(1), art. VII(J)(4); FEMA Adjuster Claims Manual VII-7(P) (2010). Mrs. Stoner did not satisfy this “condition precedent” to coverage. Gunter v. Farmers Ins. Co., 736 F.3d 768, 773 (8th Cir. 2013).

In accordance with explicit federal law governing the National Flood Insurance Program, we reverse and remand for entry of judgment in favor of Farm Bureau. Exercising our discretion under Federal Rule of Appellate Procedure 39(a), we decline to tax Farm Bureau’s costs against Mrs. Stoner.

United States Court of Appeals

For The Eighth Circuit

Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329

St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
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July 11, 2014

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RE: 13-2488 Jennie Stoner v. Southern Farm Bureau Casualty

Dear Sirs:

A published opinion was filed today in the above case.

Counsel who presented argument on behalf of the appellant was Gerald Joseph Nielsen, of Metairie, LA. The following attorney(s) appeared on the appellant brief; Richard N. Watts, of Little Rock, AR., Kim Tran Britt, of Metairie, LA., William Truman Treas, of Metairie, LA.

Counsel who presented argument on behalf of the appellee was J. Grant Ballard, of Little Rock, AR. The following attorney(s) appeared on the appellee brief; Charles A. Banks, of Little Rock, AR.

The judge who heard the case in the district court was Honorable Billy Roy Wilson. The judgment of the district court was entered on June 18, 2013.

If you have any questions concerning this case, please call this office.

Michael E. Gans
Clerk of Court

LAB

Enclosure(s)

cc: Lois Law
MO Lawyers Weekly

District Court/Agency Case Number(s): 2:12-cv-00073-BRW

United States Court of Appeals
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Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

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FAX (314) 244-2780
www.ca8.uscourts.gov

July 11, 2014

Mr. Gerald Joseph Nielsen
NIELSEN & CARTER
Suite 2850
3838 N. Causeway Boulevard
Metairie, LA 70002

RE: 13-2488 Jennie Stoner v. Southern Farm Bureau Casualty

Dear Counsel:

The court has issued an opinion in this case. Judgment has been entered in accordance with the opinion. The opinion will be released to the public at 10:00 a.m. today. Please hold the opinion in confidence until that time.

Please review [Federal Rules of Appellate Procedure](#) and the [Eighth Circuit Rules](#) on post-submission procedure to ensure that any contemplated filing is timely and in compliance with the rules. Note particularly that petitions for rehearing and petitions for rehearing en banc must be received in the clerk's office within 14 days of the date of the entry of judgment. Counsel-filed petitions must be filed electronically in CM/ECF. Paper copies are not required. No grace period for mailing is allowed, and the date of the postmark is irrelevant for pro-se-filed petitions. Any petition for rehearing or petition for rehearing en banc which is not received within the 14 day period for filing permitted by FRAP 40 may be denied as untimely.

Michael E. Gans
Clerk of Court

LAB

Enclosure(s)

cc: Mr. J. Grant Ballard
Mr. Charles A. Banks
Ms. Kim Tran Britt
Mr. David Michael Donovan
Mr. Robert William Francis
Mr. Jim McCormack
Mr. William Truman Treas
Mr. Richard N. Watts

District Court/Agency Case Number(s): 2:12-cv-00073-BRW



13-2488 Jennie Stoner v. Southern Farm Bureau Casualty "Signed Opinion Filed" (2:12-cv-00073-BRW)
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Eighth Circuit Court of Appeals

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The following transaction was filed on 07/11/2014

Case Name: Jennie Stoner v. Southern Farm Bureau Casualty

Case Number: [13-2488](#)

Document(s): [Document\(s\)](#)

Docket Text:

OPINION FILED - THE COURT: William Jay Riley, Kermit E. Bye and Jane Kelly
AUTHORING JUDGE: William Jay Riley (PUBLISHED) [4174107] [13-2488] (Lorri Brown)

Notice will be electronically mailed to:

Mr. J. Grant Ballard: gballard@bankslawfirm.us, gballard@bankslawfirm.us, twright@bankslawfirm.us
Mr. Charles A. Banks: cbanks@bankslawfirm.us
Ms. Kim Tran Britt: kbritt@nct-law.com, jburns@nct-law.com, bmvorant@nct-law.com
Mr. David Michael Donovan: david.donovan@wdt-law.com, allison.intervall@wdt-law.com
Mr. Robert William Francis: rob@reddickmoss.com
Mr. Jim McCormack, Clerk of Court: ared_appeals@ared.uscourts.gov
Mr. Gerald Joseph Nielsen: gjnielsen@nct-law.com, hgregorich@nct-law.com, tphillips@nct-law.com
Mr. William Truman Treas: wtreas@nct-law.com, jllooday@nct-law.com, sdufrene@nct-law.com
Mr. Richard N. Watts: rwatts@wdt-law.com, hmenzie@wdt-law.com
Lois Law: FED08@loislaw.com
MO Lawyers Weekly: stephanie.maniscalco@molawyersmedia.com
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Recipients:

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